

Application No. 10/371,417

Docket No.: 64671-0522

**REMARKS**

The present amendment is intended to be fully responsive to the Office Action having a mailing date of November 17, 2005 wherein claims 1-30 are rejected. Claims 2, 5, 8, 11, 17, and 21 are amended and claims 1, 3-4, 6-7, 12-16, 19-20 and 22-30 have been canceled. Applicant submits that no new matter has been added by this amendment.

**Claim Rejections - 35 U.S.C. § 102**

Claims 2, 3, 6, 11 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Story* (U.S. 4,898,451). Claim 27 is rejected as being anticipated by *Yamasaki* (U.S. 6,661,956). Applicant respectfully traverses.

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *Scripps Clinic & Research Foundation v. Genentech Inc.* 927 F.2d 1565, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Claims 3, 6, 14 and 27 have been canceled. Amended independent claim 2 recites a cable comprising, among other things, transparent or translucent buffer tubes. Amended independent claim 11 recites a similar limitation. *Story* discloses an optical fiber circumscribed by a wax forming a free standing composite disposed in a buffer tube. However, as admitted on page 4 of the Office Action, *Story* does not disclose a buffer tube that is transparent or translucent. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

**35 U.S.C. §103**

Claims 1, 4, 5, 7, 10, 12, 15-18 and 21-25 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Story* in view *Zopf et al.* (U.S. 6,208,790) (*Zopf*). Claims 8, 13 and 26

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are rejected under 25 U.S.C. §103(a) as being unpatentable *Story* in view of *Zopf* and in further view of *Yamasaki*. Claim 9 is rejected as being unpatentable over *Story* in view of *Zopf* and *Yamasaki* and in further view of *Blew* (U.S. 5,345,526). Claim 28 is rejected as being unpatentable over *Yamasaki* in view of *Story*. Claims 29 and 30 are rejected as being unpatentable over *Yamasaki* in view of *Story* and in further view of *Zopf*. Applicant respectfully traverses.

It is well known that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." See M.P.E.P. § 2143.03; Accord, M.P.E.P. § 706.02(j).

Claims 1, 4, 7, 9, 12-13, 15-16 and 22-30 have been canceled. Independent claim 2 recites a cable comprising, among other things, a color-coded filling material, a non-color-coded filling material, and "transparent or translucent buffer tubes wherein said non-color-coded filling material is disposed within said color-coded buffer tubes, and said color-coded filling material is disposed within said transparent or translucent buffer tubes." Independent claims 11 and 21 recite similar limitations.

As admitted on page 4 of the Office Action, *Story* does not teach a cable having transparent or translucent buffer tubes. Although *Zopf* suggests a substantially transparent buffer material to allow the color of fiber optics to be seen therethrough, the combination of the references do not suggest a single cable comprising both transparent (or translucent) and color-coded buffer tubes wherein a color-coded filling material is disposed within the transparent buffer tubes and a non-color-coded filling material is disposed within the color-coded buffer tubes as claimed. Therefore, independent claims 2, 11 and 21 are patentable for at least these reasons.

The above remarks regarding the patentability of claims 2, 11 and 21 are equally applicable to claims 5, 8 and 9. Neither *Yamasaki* nor *Blew* cures the deficiencies of *Story* and *Zopf* with regard to suggesting a cable comprising, among other things, both transparent (or translucent) and color-coded buffer tubes wherein a color-coded filling material is disposed within the transparent buffer tubes and a non-color-coded filling material is disposed within the color-coded buffer tubes. Accordingly, for at least these reasons, claims 5, 8 and 9 are also patentable.

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Claim 10 recites a cable comprising, among other things, a plurality of transparent (or translucent) buffer tubes wherein each buffer tube contains a different color of filling material.

Amended independent claim 17 includes similar limitations. Claim 18 depends from claim 17.

Although Story suggests colored filling material, it does not suggest using a different color filling material for each buffer tube. *Zopf* does not suggest filling materials. Accordingly, claims 10, 17 and 18 are patentable for at least this reason.

### CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 64671-0541 from which the undersigned is authorized to draw.

Dated: February 17, 2006

Respectfully submitted,

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